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October 21, 2020

**VIA ELECTRONIC MAIL**

Shonda D. Green, Secretary  
Department of Telecommunications and Cable  
Commonwealth of Massachusetts  
1000 Washington Street, Suite 600  
Boston, MA 02118-6500

**RE: CoxCom, LLC d/b/a Cox Communications New England, D.T.C. 19-6**  
**Responses to Record Requests and Motion for Protective Treatment**

Dear Secretary Green:

On behalf of CoxCom, LLC d/b/a Cox Communications New England ("Company"), attached for filing in the above-captioned docket are the Company's responses to Record Requests DTC-1 through DTC-5 and Motion for Protective Treatment of Confidential Information. This filing includes the public version of RR-DTC-4, which has been redacted. The confidential unredacted version has been submitted to the Hearing Officer separately.

Please contact me should you have any questions regarding this filing. Thank you for your attention to this matter.

Sincerely,

**BROWN RUDNICK LLP**

A handwritten signature in black ink, appearing to read "Jesse S. Reyes".

Jesse S. Reyes

Encl.

cc: William Bendetson, Hearing Officer  
D.T.C. 19-6 Service List

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**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

CoxCom, LLC d/b/a Cox Communications New England	) ) ) )	Docket No. 19-6
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**MOTION FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Pursuant to G.L. c. 25C, § 5 and 207 CMR 1.04(5)(e), CoxCom, LLC d/b/a Cox Communications New England (“Cox” or the “Company”) moves that the Department of Telecommunications and Cable (“Department”) protect from public disclosure certain confidential, competitively sensitive, and proprietary information provided in this proceeding. Specifically, Cox respectfully requests that the Department grant an exemption from public disclosure of information from the Company’s internal books and records that are not disclosed in FCC Form 1205, but which are included in the Company’s Response to RR-DTC-4 (“Confidential Information”), namely, the break out of the number of hours of in-house and outside work, as well as the subtotal that could be used to derive the Confidential Information.

The confidential version of Cox’s Response to RR-DTC-4 [CONFIDENTIAL] is being submitted to the Hearing Officer via electronic mail contemporaneously with this motion. Cox has also provided a redacted version of the Cox’s Response to RR-DTC-4 [REDACTED] for filing.

**I. LEGAL STANDARD**

The Department is authorized to protect certain information from public disclosure in accordance with G.L. c. 25C, § 5, which states in part:

[T]he department may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for

such protection. Where such a need has been found to exist, the department shall protect only so much of the information as is necessary to meet such need.

The Department has established a three-part test for determining whether, and to what extent, information submitted by a party in the course of a Department proceeding may be protected from public disclosure under G.L. c. 25C, § 5. First, the information for which protective treatment is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.”<sup>1</sup> Second, the party seeking protective treatment must overcome the statutory presumption in G.L. c. 66, § 10 that all such information is public information by “proving” the need for non-disclosure. Third, even where a party establishes the need for protective treatment, the Department may protect only so much of that information as is deemed necessary to meet the established need and may also limit the term or length of time such protection will be in effect. G.L. c. 25C, § 5. *Comcast Cable Communications*, D.T.C. 18-5 at 4–5 (2019) (“Comcast Rate Order”); *Cox Communications New England*, D.T.C. 17-7, Hearing Officer Ruling at 2–3 (December 21, 2018); *Charter Communications*, D.T.C. 17-5, Hearing Officer Ruling at 2–3 (August 2, 2018).

## **II. ARGUMENT**

The requested Confidential Information should be protected from public disclosure under G.L. c. 25C, § 5 and the Department’s three-part analysis. First, the requested data breaking out the in-house and outside work hours is proprietary, confidential, and competitively sensitive. The Confidential Information is not known outside of the Company and is controlled by the Company’s accounting personnel. The Company does not permit disclosure of its internal

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<sup>1</sup> In determining whether information sought to be protected is confidential, the courts have considered six factors of relevant inquiry: “(1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information to the employer and to his competitors; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.” *Jet Spray Cooler, Inc. v. Crampton*, 361 Mass. 835, 840 (1972).

records unless required by regulatory authorities or court order. The Confidential Information cannot be acquired or duplicated independently of the Company's records.

Second, public disclosure of the Confidential Information would reveal highly valuable information about the level to which the Company utilizes outside vendors as well as task specific data that could disadvantage the Company when it procures such services from outside vendors, resulting in higher costs and potentially higher rates to customers. In addition, public disclosure of this Confidential Information to competitors could place the Company at a disadvantage, because the information could be used to derive the Company's cost centers. Thus, there is a need to protect the Confidential Information from public disclosure.

Finally, where the need for protective treatment has been established, the third part of the Department's analysis limits confidential treatment to "only so much of the information and for the only the length of time necessary to meet the established need." *Comcast Cable Communications*, D.T.C. 18-5 at 9. Accordingly, Cox "is not making a blanket assertion of confidentiality, but rather has tailored its request to protect only the most competitively sensitive portions of its information request responses." See *YourTel America, Inc.*, D.T.C 11-1, Hearing Officer's Ruling at 6 (July 6, 2011). The Company has tailored its request to protect only the information on in-house and outside hours and the subtotal that could be used to derive them. Further, in accordance with the Department's prior rulings regarding the protection of Confidential Information, Cox requests that the Confidential Information discussed herein be protected for a minimum of five years with an opportunity to renew its request for confidential treatment at the end of the five-year period based upon a showing of need for continuing protection.

### **III. CONCLUSION**

WHEREFORE, for the reasons stated herein, Cox respectfully requests that the Department grant this Motion for Protective Treatment of Confidential Information with respect

to Confidential Information contained in its Response to RR-DTC-4 [CONFIDENTIAL] for a period of at least five years with the opportunity to renew the request for confidential treatment upon a showing of need for continuing protection.

Respectfully submitted,

**COXCOM, LLC D/B/A COX  
COMMUNICATIONS NEW ENGLAND**

By its Attorneys:

A handwritten signature in black ink, appearing to read "Jed M. Nosal", is written over a horizontal line.

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Dated: October 21, 2020

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**Record Request DTC-1**

When did Cox decide to delay its next basic rate tier change from July 2020 to March 2021?

**Response**

Sometime during the first week in December 2019.

**Record Request DTC-2**

When was the 2018 Form 1205 ready for filing?

**Response**

December 13, 2019.

**Record Request DTC-3**

Why did the costs for vehicles and tools reflected in Step A, Line 1 of the Worksheet for Calculating Permitted Equipment and Installation Charges decrease 4.7% between 2017 and 2018 despite an increase in E&I %?

**Response**

Step A, Line 1 of the Worksheet for Calculating Permitted Equipment and Installation Charges (the “**Worksheet**”) decreased 4.7% between 2017 and 2018 despite an increase in the E&I % because the costs of vehicles and tools, which increased over the period, are only one part of the calculation reported in Step A, Line 1, which decreased overall.

Step A, Line 1 of the Worksheet reports the Total Capital Costs of Installation and Maintenance from Schedule A, Box 1. The costs for vehicles and tools are a component of those total costs in Schedule A and are subject to a variety of other adjustments such as income tax rates, rate of return, depreciation, *etc.*, which are used to calculate the Total Capital Costs Of Installation And Maintenance reported in Schedule A, Box 1 and Step A, Line 1 of the Worksheet. The E&I% is applicable to only the actual costs and Net Book Value of Vehicles and Tools reported on Schedule A, Line E.

Between 2017 and 2018, the actual costs and Net Book Value of Vehicles and Tools increased due to the E&I % correction. For example, the Net Book Value of Vehicles and Tools (Schedule A, Line E) increased from \$151,926 and \$108,042 to \$225,301 and \$120,307 respectively (a combined 33% increase) over the 2017 to 2018 period. After the other adjustments in Schedule A were applied, however, the total costs in Schedule A, Box 1 (and therefore in Step A, Line 1 of the Worksheet) decreased from \$235,623.0421 in 2017 to \$224,501.804 in 2018 (a total 4.7% decrease).

**Record Request DTC-4 PUBLIC – REDACTED**

Please provide back up for the 105,177 Total Labor Hours reflected in Step A, Line 6 of the Worksheet for Calculating Permitted Equipment and Installation Charges in the 2018 Form 1205 (break out converter and trouble calls/internal and external).

**Response**

Please see breakout of 2018 hours of 105,177.

	2018	Notes
<b>Converter Hours</b>		
Inhouse		Sourced from work order records in billing system
Outside		Sourced from work order records in billing system
Subtotal		Subtotal of maintenance, installation, retrieval, and service call hours for converters and remotes. See Work Order detail below.
Converter repair		Outside vendor repair hours. Sourced from provider
<b>Total Converter Hours</b>	<b>22,651</b>	See 2018 Form 1205 Schedule C, Line B sum
<b>All Other Hours</b>		
Inhouse		Sourced from work order records in billing system
Outside		Sourced from work order records in billing system
Subtotal	82,526	See Work Order detail below.
<b>Total Hours</b>	<b>105,177</b>	See 2018 Form 1205, Step A, Ln 6

**Work Order Records in Billing System – Service Calls and Trouble Calls**

(excluding regulated hours from other departments)

	Service Calls (initial installation)		Trouble calls (post installation)	
	Converter Hours	Regulated Hours	Converter Hours	Regulated Hours
In house				
Outside				
Subtotal	5,985	62,030	8,556	20,496

Total Converter Hours = 14,540

Total Regulated Hours = 82,526

**Record Request DTC-5**

For each of the 2017 and 2018 Forms 1205, please provide the Total Capital Costs and Total Annual Operating Expenses reflected in Step A Lines 1 and 2, respectively, of the Worksheet for Calculating Permitted Equipment and Installation Charges, and also include the total of regulated and unregulated costs (before a % is applied) and the percentage used to determine regulated and unregulated costs; then provide the E&I % used in each of the 2017 and 2018 Forms 1205 (include the erroneous % and the correct %)

**Response**

FCC Form 1205 Comparison of Year End 2017 and 2018 and Associated Equipment and Installation Percentages (Costs Rounded to Whole Dollars)			
Schedule A, Regulated and Unregulated Vehicles and Tools	2017 Form 1205 (as filed)	2017 Form 1205 (corrected E&I%)	2018 Form 1205 (as filed)
Total Gross Book Value (related to Line B)	28,067,173	28,067,173	26,762,323
Total Accumulated Depreciation (related to Line C)	23,821,171	23,821,171	21,952,205
Total Cur.Prov. for Depreciation (related to Line J)	3,109,587	3,109,587	1,888,821
E&I% (rounded to two decimal places)	6.03%	8.81%	9.09%

  

Schedule A, Regulated Vehicles and Tools (E&I % Applied)			
Total Gross Book Value, Regulated (sum of Line B)	1,691,762	2,472,718	2,433,725
Total Accum. Deprec, Regulated (sum of Line C)	1,435,832	2,098,645	1,996,300
Total Cur. Prov.for Deprec., Regul. (sum of Line J)	187,432	273,955	171,767
Grand Total, Line L (see Wksht. Step A, Line 1)	235,623	332,015	224,602

<b>Schedule B, Regulated and Unregulated Operating Expenses</b>	<b>2017 Form 1205 (as filed)</b>	<b>2017 Form 1205 (corrected E&amp;I%)</b>	<b>2018 Form 1205 (as filed)</b>
Salaries & Benefits (Line A)	22,888,843	22,888,843	23,273,296
Supplies (Line A)	220,442	220,442	206,137
Utilities (Line A)	2,367,946	2,367,946	2,379,867
Other Taxes (E&I % N/A) (Line A)			
Other 1 Auto Oper/OSL (Line A)	15,887,002	15,887,002	15,941,343
Other 2 CPE R&M/Comm Exp (Line A)	1,846,062	1,846,062	1,865,812
<b>E&amp;I% (rounded to two decimal places)</b>	<b>6.46%</b>	<b>8.81%</b>	<b>9.09%</b>
<b>E&amp;I% Auto and OSL (rounded to two decimal places)</b>	<b>9.33%</b>	<b>13.78%</b>	<b>14.22%</b>

<b>Schedule B, Regulated Operating Expenses (E&amp;I % Applied)</b>	<b>2017 Form 1205 (as filed)</b>	<b>2017 Form 1205 (corrected E&amp;I%)</b>	<b>2018 Form 1205 (as filed)</b>
Salaries & Benefits (Line A)	1,550,804	2,016,507	2,286,673
Supplies (Line A)	13,287	19,421	18,746
Utilities (Line A)	142,729	208,616	216,421
Other Taxes - (E&I % N/A) (Line A)	759,301	759,301	722,499
Other 1 Auto Oper/OSL (Line A)	1,482,748	2,189,229	2,267,519
Other 2 CPE R&M/Comm Exp (Line A)	321,508	254,387	464,393
<b>Grand Total Line B (sum of Line A entries) (see Wksht. Step A, Line 2)</b>	<b>4,270,377</b>	<b>5,447,461</b>	<b>5,976,252</b>

### **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing documents upon all persons in the service list compiled by the Secretary of the Department in this proceeding and all parties of record in accordance with the requirements of 207 CMR 1.05(1) (Department's Procedural Rules).

Dated at Boston, Massachusetts, this 21st day of October 2020.

A handwritten signature in black ink, appearing to read "Jesse S. Reyes", is written over a solid black horizontal line.